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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 BETTY GUZMAN,) Civil No.11-0069-WQH(WVG)
12)
12 Plaintiff,) ORDER REGARDING JOINT
13) STATEMENT FOR
13 v.) DETERMINATION OF
14) DISCOVERY DISPUTES
14)
15 BRIDGEPOINT EDUCATION,)
15 INC., ASHFORD UNIVERSITY,)
16)
16 Defendants.)
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18 On March 4, 2014, the Court received a Joint State-
19 ment For Determination of Discovery Disputes ("Joint
20 Statement"). The Court, having reviewed the Joint State-
21 ment and the documents attached thereto, and GOOD CAUSE
22 APPEARING, HEREBY DENIES as UNTIMELY the motions to compel
23 further responses to interrogatories and requests for
24 production of documents contained in the Joint Statement.

25 Background

26 On September 23, 2013, the Court issued a Case
27 Management Conference Order ("CMC Order") that stated that
28 discovery was authorized only for class certification

1 issues. Discovery on the merits of Plaintiff's claims and
2 Defendants' defenses was not authorized.

3 The CMC Order states in pertinent part:

4 All discovery pertaining to facts shall be
completed on or before March 31, 2014...

5 "Completed" means that all discovery under
6 Rules 30-36 of the Federal Rules of Civil
Procedure must be initiated a sufficient
7 period of time in advance of the cut-off date,
so that it may be completed by the cut-off
8 date, taking into account the times for ser-
vices, notice, and response as set forth in
9 the Federal Rules of Civil Procedure. All
disputes concerning discovery shall be brought
10 to the attention of the Magistrate Judge no
later than thirty (30) days following the date
11 upon which the event giving rise to the dis-
covery dispute occurred." (emphasis in origi-
12 nal). (CMC Order, at 2, 11. 17-18, 20-27).

13 This Court's Chambers Rules also state in pertinent
14 part: "For written discovery, the event giving rise to the
15 discovery dispute is the date of the service of the
16 response." (Hon. William V. Gallo Chambers Rules, at
17 IV.E.).

18 On November 8, 2013^{1/}, Plaintiff and Defendants filed
19 a Joint Motion For Extension of Time To File Joint State-
20 ment Regarding Discovery Dispute ("Joint Motion For
21 Extension"). In the Joint Motion For Extension, the
22 parties acknowledged that the deadline to bring the
23 dispute to the Court's attention was on the very day they
24 filed it. On November 12, 2013^{2/}, the Joint Motion For
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27 ^{1/}November 8, 2013 was a Friday.

28 ^{2/}November 12, 2013, a Tuesday, was the first business day after Veteran's
Day, a federal court holiday.

1 Extension was denied for two reasons: the parties' failure
2 to meet and confer in person and because it was untimely.

3 Requests for Admission and Interrogatories

4 On August 5, 2013, Plaintiff served Requests for
5 Admission and Interrogatories on Defendants Ashford
6 University ("Ashford") and Bridgepoint Education
7 ("Bridgepoint").

8 On October 9, 2013, Ashford provided to Plaintiff
9 Responses to the Requests for Admission and Interrogato-
10 ries. No Responses were received from Bridgepoint.

11 On October 29, 2013, Plaintiff's counsel sent a meet
12 and confer letter^{3/} to Ashford's counsel regarding his
13 perceived deficiencies in Ashford's Responses to Requests
14 for Admission and Interrogatories. The meet and confer
15 letter also noted Bridgepoint's failure to respond.

16 On November 15, 2013, Bridgepoint provided to
17 Plaintiff its Responses to Requests For Admission and
18 Interrogatories.

19 On November 22, 2013, in compliance with the Court's
20 Local Rules and this Court's Chambers Rules, albeit late
21 in the process, counsel attended an in-person meet and
22 confer conference. At the conference, Defendants' counsel
23 stated that supplemental responses to the Requests for
24 Admission and Interrogatories may be forthcoming, but did
25 not indicate which discovery responses would be supple-
26 mented.

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28 ^{3/}The meet and confer obligation done only by letter is a violation of the Court's Local Rules and this Court's Chambers Rules. Since counsel are both located in San Diego County, they were required to meet and confer in person.

1 On December 10, 2013 and January 23, 2014, Plain-
2 tiff's counsel sent an email and letter to Defendants'
3 counsel which inquired of Defendants' counsel when supple-
4 mental responses to the Requests for Admission and Inter-
5 rogatories would be provided.

6 On February 3, 2014, Defendants' counsel served on
7 Plaintiff's counsel Supplemental Responses to the Requests
8 for Admission and Interrogatories.

9 On March 4, 2014, the Court received the Joint
10 Statement.

11 In accordance with Federal Rules of Civil Procedure
12 33(b)(2) and 36(a)(3), Ashford and Bridgepoint each had
13 until September 4, 2013, to provide their responses to
14 Plaintiffs discovery requests. When they did not respond
15 on time, the 30-day clock to resolve those disputes began
16 to run. Ashford's untimely responses 30 days later on
17 October 9, 2013, did not reset the clock, but even assum-
18 ing that it did, Plaintiff had until November 12, 2013, to
19 bring the matter to the Court's attention. Defendant's
20 Supplemental Responses served on February 3, 2014 also did
21 not reset the clock as Plaintiff contends. To follow
22 Plaintiff's logic, the 30-day clock would never begin to
23 run as long as the opposing party continued to amend or
24 supplement earlier responses. The filing by the parties of
25 their Joint Motion For Extension on November 8, 2013, by
26 itself, was insufficient to toll the clock.

27 It appears to the Court that the Response to Inter-
28 rogatory No. 7 is the only interrogatory at issue in the

1 Joint Statement. The Response to Interrogatory No. 7 was
2 served on October 9, 2013. The response was never changed
3 or supplemented. Any motion to compel a supplemental
4 response to Interrogatory No. 7 was due on November 12,
5 2013^{4/}. Since the Joint Statement was not received by the
6 Court until March 4, 2014, the motion to compel further
7 response to Interrogatory No. 7 is untimely. Therefore,
8 the motion to compel further response to Interrogatory No.
9 7 is DENIED. Defendants need not provide a supplemental
10 response to Interrogatory No. 7.

11 Requests For Production of Documents

12 On November 22, 2013, Plaintiff served on Ashford
13 and Bridgepoint Requests for Production of Documents.

14 On December 23, 2013, Ashford and Bridgepoint served
15 on Plaintiff their Responses to the Requests for Produc-
16 tion of Documents.

17 On January 23, 2014, Plaintiff's counsel sent a meet
18 and confer letter^{5/} to Defendants' counsel regarding his
19 perceived deficiencies in Defendants' Responses to the
20 Requests for Production of Documents

21 On January 27, 2014, Defendants' counsel responded
22 to Plaintiff's counsel's meet and confer letter regarding
23 their Responses to Requests for Production of Documents.
24 Defendants' counsel maintained Defendants' objections to
25 Requests for Production of Documents Nos. 11 and 16.

27 ^{4/}The actual date a motion to compel a supplemental response to
28 Interrogatory No. 7 was due was November 10, 2013, a Sunday. See fn. 2.

^{5/}See fn. 3

1 On February 3, 2014, counsel attended an in-person
2 meet and confer conference regarding Defendants' Responses
3 to the Requests for Production of Documents. At the
4 conference, Defendants' counsel maintained Defendants'
5 objections to Requests for Production of Documents Nos. 11
6 and 16.

7 On March 4, 2014, the Court received the Joint
8 Statement.

9 It appears to the Court that the Responses to
10 Requests for Production of Documents Nos. 11 and 16 are at
11 issue. The Response to Requests for Production of Docu-
12 ments Nos. 11 and 16 was served on December 23, 2013. Any
13 joint statement containing a motion to compel further
14 responses to Requests for Production of Documents Nos. 11
15 and 16 was due on January 23, 2014. Since the Joint
16 Statement was received by the Court on March 4, 2014, the
17 motion to compel further responses to Requests for Produc-
18 tion of Documents Nos. 11 and 16 is untimely. Therefore,
19 the motion to compel further responses to Requests for
20 Production of Documents Nos. 11 and 16 is DENIED. Defen-
21 dants need not provide supplemental responses to Requests
22 for Production of Documents Nos. 11 and 16.

23 Conclusion

24 This is not a close call. Plaintiff clearly knew the
25 rules that discovery disputes must be brought to the
26 Court's attention in a timely manner and no later than 30
27 days from the time the dispute arose. The parties were
28 advised of this in the Court's Order of November 12, 2013.

1 The clock does not reset simply because Plaintiff allowed
2 Defendants to serve untimely responses. At this time, with
3 two weeks left before fact discovery is to conclude on
4 March 31, 2014, the parties brought to the Court's atten-
5 tion discovery disputes that arose in October and December
6 2013.

7 In the Case Management Conference Order, the parties
8 were ordered that all discovery was to be initiated so
9 that it was completed by the set deadline. To allow the
10 requested discovery would require an extension of time for
11 fact discovery to be completed, which in turn, would
12 require extending the date by which the critical Motion
13 for Class Certification must be filed.^{6/} At this time, the
14 Court is unwilling to extend any dates set in the Case
15 Management Conference Order.

16 In Wong v. Regents of the University of California,
17 410 F.3d 1052, 1060, 1062 (9th Cir. 2005), the court
18 stated:

19 In these days of heavy caseloads, trial
20 courts... routinely set schedules and estab-
21 lish deadlines to foster the efficient treat-
22 ment and resolution of cases. Those efforts
23 will be successful only if the deadlines are
24 taken seriously by the parties, and the best
25 way to encourage that is to enforce the dead-
26 lines. Parties must understand that they will
27 pay a price for failure to comply strictly
with scheduling and other orders, and that
failure to do so may properly support severe
sanctions and exclusion of evidence...
If (Plaintiff) had been permitted to disregard
the deadline..., the rest of the schedule laid
out by the court months in advance, and under-
stood by the parties, would have to have been

28 ^{6/}The Case Management Conference Order set April 30, 2014 as the date by
which the Motion for Class Certification must be filed.

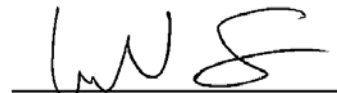
1 altered as well. *Disruption to the schedule of*
2 *the court and other parties is not harmless.*
3 Courts set such schedules to permit the court
4 and the parties to deal with cases in a thor-
ough and orderly manner, and they must be
allowed to enforce them, unless there are good
reasons not to. (emphasis added).

5 See also 02 Micro Intern Ltd. v. Monolithic Power
6 Systems, Inc., 467 F.3d 1355, 1368-1369 (9th Cir. 2006).

7 Neither party, but particularly Plaintiff, has
8 explained, let alone justified, the extraordinary delay in
9 bringing these disputes to the Court's attention. Without
10 good cause having been demonstrated, there is no reason to
11 grant the parties' requests.

12 IT IS SO ORDERED.

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14 DATED: March 18, 2014

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17 Hon. William V. Gallo
18 U.S. Magistrate Judge
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